

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

+ WRIT APPEAL Nos.678, 679, 680 and 681 of 2023

% Date:30.01.2024

The State of Telangana,
Rep. by its Principal Secretary,
Rev Assn – III Department,
Secretariat, Hyderabad, and others.

... Appellants

v.

\$ M/s. Balaji Administrative Services Private Limited,
and others.

... Respondents

! Counsel for the appellants: Mr. A.Sudarshan Reddy,
Learned Advocate General

^ Counsel for the respondents : Mr. Vedula Venkata Ramana,
Learned Senior Counsel for
M/s. Nomos Vistas the Lawyers

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. (2003) 1 SCC 95
2. (2015) 1 SCC 767

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT APPEAL Nos.678, 679, 680 and 681 of 2023

COMMON JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

These intra court appeals emanate from a common order dated 27.01.2023 passed by the learned Single Judge in four writ petitions. The respondents had filed a writ petition, namely W.P.No.22601 of 2014, against the order dated 17.04.2014 by which the request made by them seeking extension of time for a further period of six months for getting clearance from the concerned departments of State Government for utilization of the land allotted to them was rejected. The respondents filed another writ petition, namely W.P.No.30993 of 2014 against the order dated 15.09.2014, by which permission for change of land use from residential to general commercial use in respect of the land allotted to them was rejected. The respondents impugned the validity of show cause notices dated 22.09.2015, by which they were asked to show cause as to why the land allotted to them should not be resumed, in a

writ petition, namely W.P.No.32403 of 2015. The respondents filed another writ petition, namely W.P.No.8376 of 2018 seeking a direction to the respondents not to interfere with the possession and enjoyment of the land allotted to them. All the aforesaid writ petitions were allowed by a common order dated 27.01.2023 by the learned Single Judge. In order to appreciate the grievance of the appellants, relevant facts need mention which are stated infra.

2. M/s.Balaji Administrative Services Private Limited is a company registered under the provisions of the Companies Act, 1956 which has been constituted with an object of printing 'Udayam' Telugu daily newspaper and 'Sivaranjani Cine Maxine'. Similarly, M/s.Creative Industries Private Limited is a company registered under the Companies Act, 1956 which has been constituted for printing and publishing English daily 'Guardian'. A company in the name and style of Maharshi Publishers Private Limited was registered under the provisions of the Companies Act, 1956 with an object of publishing 'Andhra

Patrika' Telugu daily and other periodicals. The erstwhile Government of Andhra Pradesh had taken a policy decision to encourage the functioning of newspaper concerns and educational institutions, which were finding it difficult to find the land within the erstwhile State at affordable prices.

3. A large tract of 72 acres of land belonging to the State Government in survey No.403 corresponding to T.S.No.2 of Shaikpet Village, of Hyderabad District was lying vacant. The State Government allotted Acs.43.00 of land to Hyderabad Urban Development Authority (HUDA) for the purpose of development of residential plots which could be sold and proceeds thereof could be utilized for formation of Necklace Road around Hussain Sagar lake. The possession of the aforesaid land measuring Acs.43.00 was given on 22.05.1993 to HUDA. The respondent companies submitted an application for allotment of land for setting up of the printing press. In pursuance of its policy of granting land to members of fourth estate and educational institutions, the erstwhile Government of Andhra Pradesh

issued G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994, by which land measuring Acs.2.00 each in survey No.403 correlated to T.S.No.2, Block 'D', Ward 9 and T.S.No.1, Block 'F' of Shaikpet Village, Golconda Mandal, Hyderabad District (hereinafter referred to as 'the subject land') was allotted to the respondents @ Rs.200/- per square yard for the purpose of locating administrative block and printing press. On 29.11.1994, the respondents deposited Rs.19,36,000/- each i.e., the entire price of land fixed under the said G.Os with the appellants. The possession of the subject land was not handed over to the respondents, whereas the same was handed over to another two institutions i.e., M/s.DOT Publishers and Roots Educational Society Private Limited.

(i) BACKGROUND FACTS:

4. The respondents thereupon filed the writ petitions, namely W.P.Nos.3376, 3384 and 4637 of 1996 seeking a direction to the appellants to hand over possession of the subject land. The learned Single Judge by an order dated 01.04.1998 allowed the writ petitions and directed the

appellants to hand over possession of the subject land within a period of four weeks.

5. The appellants thereupon filed writ appeals, namely W.A.Nos.1716 and 1715 of 1998 and 833 of 2001. During the pendency of the writ appeals, the State Government issued G.O.Ms.No.38, dated 16.01.2001, by which the G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994, allotting the subject land in favour of the respondents, were cancelled on the ground that the subject land was earmarked for residential purpose and the price stipulated in the aforesaid G.Os dated 31.10.1994 is ridiculously low.

6. The respondents also filed contempt petitions, namely C.C.Nos.114, 115 and 116 of 2001 against the appellants herein. A Division Bench of this Court by a common judgment dated 08.05.2001 dismissed the writ appeals preferred by the appellants herein, namely W.A.No.1715 of 1998 and batch, and affirmed the order passed by the learned Single Judge. The Division Bench while dismissing the aforesaid writ appeals, set aside

G.O.Ms.No.38, dated 16.01.2001 and closed the contempt petitions.

7. The appellants herein challenged the aforesaid common judgment passed by the Division Bench before the Supreme Court. The Supreme Court, vide judgment dated 01.11.2002 (**Government of Andhra Pradesh vs. Maharshi Publishers Private Limited**¹) dismissed the civil appeals.

8. Thereafter, the State Government issued G.O.Ms.Nos.482, 483 and 484, dated 20.07.2004 directing the Collector to handover the possession of subject land to respondents by executing the deed prescribing the conditions therein. In compliance of the aforesaid order, the possession of the subject land was handed over to respondents on 02.08.2004. The State Government, thereafter, issued a Memo dated 01.09.2007 by which allotment of subject land in favour of respondents was cancelled and the Collector was directed to resume the subject land. The respondents thereupon filed a writ

¹ (2003) 1 SCC 95

petition, namely W.P.No.4905 of 2008 in which the validity of the Memo, dated 01.09.2007 was assailed and a direction was sought to the appellants not to interfere with the possession and enjoyment of the subject land. The learned Single Judge by an order dated 17.07.2012 quashed the Memo, dated 01.09.2007 *inter alia* on the ground that the competent authority namely State Government has to consider the explanation submitted by the respondents and the same was not done. However, liberty was granted to the State Government to pass a fresh order after considering the explanation already submitted by the respondents. Accordingly, the writ petition was allowed.

9. The State Government thereafter issued G.O.Ms.No.577, dated 27.11.2013 and directed the Collector to issue final notice to the respondents granting them six months time to get all the clearances and to start the work on the subject land without any deviations. The respondents were further directed to show the progress of

the work, failing which it was directed that the District Administration may resume the subject land.

10. The respondents submitted a communication on 24.02.2014 requesting to extend the time for a further period of six months to enable them to get the required permission and to commence the work for the purpose for which the subject land was allotted to them. The State Government, however, by an order, dated 17.04.2014 rejected the prayer made by the respondents seeking extension of time for a further period of six months. By an order dated 15.09.2014, the request made by the respondents for change of land use from residential to general commercial use was rejected. Thereafter, show cause notices dated 22.09.2015 were issued to the respondents to show cause as to why the land allotted to them should be not resumed. Thereupon, the respondents filed the writ petitions seeking the reliefs as stated supra.

(ii) ORDER OF LEARNED SINGLE JUDGE:

11. The learned Single Judge by a common order dated 27.01.2023 *inter alia* held that G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994 i.e., the orders of allotment in respect of subject land, are in force. It was *inter alia* held that the State is not entitled to resume the land and attempt made by the appellants to resume the land while permitting the other two entities, namely M/s.DOT Publishers and Roots Educational Society Private Limited is arbitrary and is violative of Article 14 of the Constitution of India. It was further held that the State Government is not entitled to impose additional terms and conditions which are not mentioned in the original order of allotment. It was also held that the respondents are entitled for conversion of the land use on the same parameters, on the basis of which the other two entities, namely M/s.DOT Publishers and Roots Educational Society Private Limited were permitted for conversion of land use. Accordingly, the learned Single Judge allowed the writ petitions with the following directions:

(1) The respondents are directed to take immediate steps for execution and registration of proper conveyance deed in favour of the petitioners 1 to 3 in respect of the respective allotted lands and complete the same within a period of two (2) months from the date of receipt of a copy of this order.

(2) The impugned order in W.P.No.30993 of 2014 i.e., Lr.No.18298/11/2012-5, dated 15.09.2014 is set aside and the matter is remanded back to the respondents for considering the request of the petitioners afresh on par with the other two entities i.e., M/s.DOT Publishers and Roots Educational Society Private Limited and extend the benefits that are extended to the said two entities in the light of the order of the Hon'ble Apex Court in Civil Appeal Nos.7152 to 7157 of 2002, dated 01.11.2002 within a period of three (3) months from the date of receipt of a copy of this order.

(3) The respondents are further directed not to interfere with the possession and enjoyment of the petitioners over their respective allotted lands in any manner.

In the aforesaid factual background, these writ appeals have been filed.

(iii) SUBMISSIONS OF APPELLANTS:

12. Learned Advocate General submitted that the market value of the subject land at the relevant time was

Rs.2,000/- per square yard and the same has been allotted on a concessional rate of Rs.200/- per square yard to the respondents under the policy, dated 31.10.1994 framed by the erstwhile Government of Andhra Pradesh. It is pointed out that the respondents, namely the three companies are managed by one person and have stopped publication of newspaper long back. It is contended that the respondents have even not applied for permission with the Registrar of Newspapers for India (RNI), which is competent to clear the title in respect of the newspapers. It is further contended that despite the allotment of the land to the respondents in the year 1994, till today no steps have been taken by the respondents to utilize the land for the purpose for which it was allotted. It is pointed out that the respondents have not challenged the validity of G.O.Ms.No.577, dated 27.11.2013, by which the Collector was directed to issue notice to the respondents granting them six months time to get all the clearances and to commence the work.

13. It is argued that the subject land is situated in a residential area. It is contended that allocation of a public

land to a private entity is required to be judged on transparent and fair manner and learned Single Judge ought to have appreciated that the respondents, namely the beneficiaries of the allotment have abused their position to the disadvantage of the public. In support of the aforesaid submission, reliance has been placed on a decision of the Supreme Court in **Raunaq Education Foundation vs. State of Haryana**².

(iv) SUBMISSIONS OF RESPONDENTS:

14. On the other hand, learned Senior Counsel for the respondents submitted that the allotment of subject land to the respondents is on payment of value i.e., Rs.200/- per square yard. It is pointed out that in initial Government Orders, namely G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994, by which the land was allotted to the respondents, no conditions have been incorporated. It is further submitted that in view of the judgment of the Supreme Court in **Maharshi Publishers Private Limited** (supra), the action of the appellants in seeking to resume

² (2015) 1 SCC 767

the land is *per se* arbitrary and is violative of mandate contained in Article 14 of the Constitution of India. It is urged that the subject land can be resumed either under the statute or under forfeiture of the conditions subject to which the allotment has been made. It is further submitted that either of the aforesaid exigencies in the facts and circumstances of the case, are not fulfilled and therefore, the action of the appellants in seeking to resume the land is *per se* without any authority of law.

15. It is contended that the directions issued by the learned Single Judge are in consonance with the judgment of the Supreme Court in **Maharshi Publishers Private Limited** (supra). It is further contended that the appellants cannot be permitted to whittle down the ratio of the judgment of the Supreme Court which being inter parties binds the appellants.

16. We have considered the rival submissions made on both sides and have perused the record. The issues which arise for consideration in these intra-court appeals are as follows:

(v) ISSUES:

(i) Whether the orders of allotment of subject land, vide G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994 are in force?

(ii) Whether in view of judgment dated 01.11.2002 passed by the Supreme Court in **Maharshi Publishers Private Limited** (supra), the State Government has the authority to pass the order vide G.O.Ms.No.577, dated 27.11.2013?

(iii) Whether the order vide G.O.Ms.No.577, dated 27.11.2013 binds the respondents and they are under an obligation to put the subject land to use for the purpose for which it has been allotted? and

(iv) Whether Letter No.9362/Assn.III/1/2014-1, dated 17.04.2014 and communication dated 15.09.2014 as well as show cause notices dated 22.09.2015 are legal and valid?

Issue (i): Whether the orders of allotment of subject land, vide G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994 are in force?

17. Admittedly, the State Government had taken a policy decision to encourage the functioning of newspaper concerns and educational institutions, which were finding it difficult to find the land within the erstwhile State at affordable prices. The respondents thereupon submitted representations for allotment of the land. Thereupon, the proceedings for allotment of land were initiated. The State Government directed the Collector to submit the report. The Collector submitted the report dated 29.09.1994 to the State Government on 11.10.1994. The relevant extract of the report reads as under:

As regard the market value, it is submitted that as per the Basic Value Register maintained by Sub-Registrar, Khairatabad the basic value in the area is Rs.400/- to Rs.1000/- and the market value in the area is ranging Rs.1,800/- to Rs.2,000/- per square yard. The Mandal Revenue Officer, Golconda in his Lr.No.C/2909/94 dated 08.07.1994 has informed that the land has been developed by HUDA and that as per the Market value in the area and rate statistics, he recommended for Rs,2,000/- per square yard. The Vice Chairman HUDA in D.O.Lr.No.3698/B/Lands/94 dated 24.05.1994 has informed that they have spent huge amount for development of the land which worked out Rs.225/- per square yard. He has

requested for payment of the development charges in addition to the market value fixed. Therefore, the market value for the land is recommended for Rs.2,000/- per square yard plus development charges @ Rs.225/- per square yard.

In view of the above, the request of M/s.Balaji Administrative Services Private Limited for allotment of land measuring Ac.2.00 in T.S.No.2/P, Block-B, Ward-9 and T.S.No.1 Block-F, Ward-9, correlated to Survey No.403 of Shaikpet village may be considered on payment of market value plus and development charges proposed above.

18. However, the State Government by G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994 allotted the subject land to respondent at the rate of Rs.200/- per square yard. One such order, i.e., G.O.Ms.No.1096, dated 31.10.1994 reads as under:

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

LAND - Hyderabad District - Golconda Mandal - Shaikpet Village. Sy.No.403, correlated to T.S.No.2, Block 'D', Ward 9 and T.S.No.1, Block 'F' - Allotment of land to an extent of 2.00 acres - In favour of M/s.Balaji Administrative Services Private Limited - Orders - Issued

Revenue (Asn.III) Department

G.O.Ms.No.1096 dated 31.10.1994

Read:

Representation from the Director, Balaji Administrative Services Private Limited dated: Nil

ORDER:

The Government hereby sanction allotment of land to an extent of 2.00 acres in Sy.No.403 correlated to T.S.No.2, Block 'D', Ward 9 and T.S.No.1, Block 'F' of Shaikpet Village, Golconda Mandal, Hyderabad District in favor of M/s.Balaji Administrative Services Private Limited for locating the Administrative Block and Printing Press on payment of land value at the rate of Rs.200/- per square yard after resuming the same from the lands already handed over to H.U.D.A. for the purpose of raising funds for Necklace Road in relaxation of the ban orders issued in G.O.Ms.No.634, Rev. (Asn.III) Department, dated 02.07.1990, pending completion of formalities.

2. The value of the land shall be credited to the Head of Account "0029-Land Revenue - 107 Sale Proceeds of Waste Lands and Resumption of Land Tax - 81 - Other Item".

3. The Collector, Hyderabad District is requested to take necessary further action in the matter on top priority.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF
ANDHRA PRADESH)

M.NARAYANA RAO,
SECRETARY TO GOVERNMENT

19. The State Government by G.O.Ms.No.38, dated 16.01.2001 cancelled the allotment of land to the respondents. The aforesaid order was set aside by a

Division Bench of this Court vide judgment passed in W.A.No.1715 of 1998 and batch dated 08.05.2001. In paragraphs 10 to 13, the Division Bench held as under:

10. There is a difference between a Governmental scheme and the contract entered into by the Government. While a scheme or a policy by whatever name called is formulated by the Government and which is traceable to Art.162 of the Indian Constitution, the Government contract is one governed by Article 299 of the Indian Constitution. The assignments made, as already stated above, are pursuant to the policy/scheme of the Government to give incentives to the Newspaper Concerns and Educational Institutions, keeping the public utility in view. Journalism is an important aspect of life and has become indispensable. There are several difficulties faced by the Newspaper Concerns as also the educational institutions, such as the setting up of offices, staff quarters etc. But the main problem is the availability of land and that too, at affordable cost. To solve that basic need and enabling the said newspaper concerns and educational institutions to set-up their concerns and to function effectively and in the context of their public utility, the Government has taken a policy decision to assign the land at affordable cost. Such being the policy of the Government, it is only referable to its executive power under Article 162 of the Constitution and it does not fall within the ambit of Art. 299. As such, the contention of the learned Advocate General touching upon Art. 299, of the

Indian Constitution and the judicial precedents cited have got no bearing on the point in issue. The above policy enunciated by the Government to assign its land in favour of Newspaper Concerns and Educational Institution is a salutary one and there is no illegality in the same. In fact, nobody has assailed the policy of the Government. Such a policy cannot also be dissected by the Government to favour persons of its choice and to deprive the others. It is not that the policy is being withdrawn and if that is so, all the assignees have to lose their benefits. It is also not that any undue advantage is being given to the petitioners than the other assignees. In fact, undue favour has been shown in favour of Roots Public School and M/s DOT Publishers, as even without receipt of the amount the possession has been delivered enabling them to undertake their works and it is so glaring a discrimination that in spite of the petitioners depositing the entire amounts possession has not been delivered to them. HUDA which is also a State under Article 12 of the Constitution, assisted the Government in acting with discrimination towards the petitioners. In the Governmental Orders it is clearly recited that the lands which have been assigned to the petitioners and two others have been resumed, and if the resumption in favour of M/s DOT Publishers and Roots Public School was not objectionable, it is ununderstandable as to how HUDA can see objection only in the assignments made in favour of the petitioners. Even with regard to the cost, as already stated above, the petitioners had deposited the entire amounts in lump

sum while two others did not even deposit the amounts as on the date of delivery of possession. There are no special circumstances stated to give such a concession in favour of M/s DOT Publishers and Roots Public School. Facts are so obvious that everything is equal so far as the scheme is concerned and that there are no factors to treat the petitioners differently than DOT publishers and Roots Public School. In fact, monetary concession has been shown in favour of M/s DOT Publishers and Roots Public School in allowing them to deposit the amounts even later to the delivery of possession while advance possession was delivered in favour of those two assignees. There is no distinguishable feature shown to us to treat the petitioners differently than M/s. DOT Polishers and Roots Public School, whose assignments are still intact. Article 14 of the Indian Constitution has been rightly invoked by the learned single Judge because of the violation of the Government of its policy/scheme.

11. In view of the above, we do not see any infirmity in the judgment rendered by the learned single Judge and we affirm the same.

12. Coming to the contempt cases, the Government ought not to have tinkered with the order of the learned single Judge, as the order of the learned single Judge has not either been stayed or suspended. In a country like ours, governed by the rule of law, each organ be it Legislative, Executive or Judiciary should have respect in their respective spheres and the Judiciary having been invested with powers of

testing both legislative and administrative actions and if a judgment is rendered by a judicial authority, the said judgment has to be honoured so long as it is not stayed, varied or annulled. The issuance of show-cause notice dated 3-8-2000 seeking to cancel the assignments in favour of the petitioners is highly objectionable. What is more, in spite of pleas being taken by the petitioners that such action amounts to contempt of court, the respondent-Government. did not stop there and in fact proceeded further with all impugntiy and such action only challenges the authority of the Judiciary in exercise of its judicial power of the State. But, we do not know for sure as to who is the real person/authority who had prompted the said contemptuous action. For the said reason and adopting the constraint, which the judicial authority should normally do in a case of contempt, which is the harshest measure, we are refraining ourselves from proceeding further in the matter of contempt, taking leniency in the matter. However, the contemptuous action culminating into issuance of G.O.Ms.No.38 dated 16.1.2001 cannot stand and the same is accordingly set aside.

13. In the result, the writ appeals are dismissed and the contempt cases are closed by setting at naught the contemptuous G.O.Ms.No.38 dated 16.1.2001. No costs.

20. Against the aforesaid common judgment, Civil Appeals were preferred, which were dismissed by the

Supreme Court vide its judgment dated 01.11.2002 (**Maharshi Publishers Private Limited** (supra)) and in paragraphs 8 to 10, it was held as under:

8. Another contention urged before the Division Bench of the High Court and reiterated before us, is that there were no contracts signed by complying with the formalities under Article 299 of the Constitution and therefore the Government was not obliged to honour its commitments. This contention has rightly been repelled by the Division Bench of the High Court by pointing out that the sale of the land was not as a result of any commercial transaction by the State Government, but pursuant to its declared socio-economic policy reflected in the scheme of allotment of land to give incentives to newspaper concerns and educational institutions. The High Court rightly held that this was an executive act falling within the province of Article 162 and not within the ambit of Article 299 of the Constitution. The material placed on record does clearly indicate that undue favour was shown to Roots Public School and M/s D.O.T. Publishers as the assigned lands were handed over to them even without full payment being made. In the case of M/s D.O.T. Publishers, not even a rupee had been paid by them as on the date on which advance possession was given to them. In the case of the three writ petitioners before the High Court, who, in our opinion, were equally situated, there was hostile discrimination against them in that, despite fully depositing the amount of Rs.19,36,000/- possession

was not handed over to them on one pretext or the other and they were driven to filing writ petitions before the High Court. In the circumstances, we are of the opinion that the judgment of the High Court under appeal holding that there was violation of the fundamental rights of the writ petitioners under Article 14 is justified and needs to be upheld.

9. We are also in agreement with the view expressed by the Division Bench that the issuance of GOMs No. 38 dated 16-1-2001 (Annexure P-4) despite the judgment of the Single Judge and the pendency of the writ appeals filed by the State Government and HUDA before the High Court was contumacious on the part of the State Government. We think that the Division Bench took a somewhat gracious view of the matter in not inflicting punishment for contempt of court, but rested content with quashing the offending GOMs No. 38 dated 16-1-2001 (Annexure P-4). In our view, the appellants appear to have been lightly let off. There is no scope for interference on this count.

10. In the result, we uphold the judgment of the High Court under appeal and dismiss the appeals. No costs.

21. Thus, from the facts narrated supra, it is evident that the subject land was allotted to the respondents on a concessional rate under policy of the erstwhile State of Andhra Pradesh and the same is not a conveyance on

payment of consideration. It is also axiomatic that the orders of allotment of subject land vide G.O.Ms.Nos.1096, 1098 and 1099, dated 31.10.1994 are still in force. Accordingly, the issue (i) is answered in the affirmative.

Issue (ii): Whether in view of judgment dated 01.11.2002 passed by the Supreme Court in Maharshi Publishers Private Limited (supra), the State Government has the authority to pass the order vide G.O.Ms.No.577, dated 27.11.2013?

22. The State Government despite the orders of allotment dated 31.10.1994, did not handover the possession and thereafter issued an order vide G.O.Ms.No.38, dated 16.01.2001 directing cancellation of allotment of subject land in favour of respondents. The aforesaid Government Order was set aside by the learned Single Judge as well as the Division Bench of this Court and was eventually upheld by the Supreme Court in (**Maharshi Publishers Private Limited** (supra)). In compliance of the order passed by the Supreme Court, the State Government issued G.O.Ms.Nos.482, 483 and 484, dated 20.07.2004, whereby the Collector was directed to handover possession subject

to respondents executing the Deed prescribing the conditions therein. It is pertinent to note that in previous round of litigation, the action of the State Government in not handing over the possession of the subject land to the respondents and in issuing the order of cancellation of allotment were the subject matter of adjudication. The State Government thereafter in terms of the liberty granted by the learned Single Judge by an order dated 17.07.2012 passed in W.P.No.4905 of 2008, issued G.O.Ms.No.577, dated 27.11.2013. The aforesaid order reads as under:

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Hyderabad – Lands – Directions of the Hon'ble High Court of A.P in its order dt:17-07-2012 in WP No.4905 of 2008 filed by M/s. Balaji Administrative Services Private Limited, M/s. Maharshi Publishers Private Limited, and M/s. Creative Industries Private Limited – Final notice giving (6) months time to the aforesaid (3) firms, to get all the clearances and to start the work with reference to the objectives for which the land has been allotted to them without any deviations and to show the progress – Orders – Issued.

REVENUE (ASSIGNMENT-III) DEPARTMENT

GO.Ms.No.577

Dt:27-11-2013

1. Notice from the Hon'ble High Court of A.P. in WP No.4905 of 2008 filed by M/s. Balaji Administrative Services Private Limited, M/s. Maharshi Publishers Private Limited and M/s. Creative Industries Private Limited, dated 07-03-2008.
2. Orders of the Hon'ble High Court of A.P in its order dt:17-07-2012 in WP No.4905 of 2008 filed by M/s. Balaji Administrative Services Private Limited, M/s. Maharshi Publishers Private Limited, and M/s. Creative Industries Private Limited.
3. Government Memo No.14116/Assn.III /2/1996, Dated: 01-09-2012 of Revenue (Assignment-III) Department.
4. From the Collector, Hyderabad Lr.No.I1/8593/1992, Dated 13-09-2012, addressed to the Government.
5. Govt. Memo No.14116/Assn.III /2/1996, Dated 08-10-2012, last reminder dated 31-08-2013 of Revenue (Assignment-III) Department.
6. From the Spl.CS & CCLA, Hyderabad Lr.No.BBB-2/465/2013, Dated 16.09.2013.

ORDER:-

In the reference 1st read above, M/s Balaji Administrative Services Private Limited, M/s. Maharshi Publishers Private Limited, and M/s. Creative Industries Private Limited have filed Writ Petition No.4905/2008 before the Hon'ble High Court of AP for declaring that the action of the 1st Respondent contained in Memo.No.14116/Assn.III/1996, Dated 01-09-2007 cancelling the land allotments of the petitioners covered by GO.Ms.No.1096, 1098 and 1099 Dated 31-10-1994 and directing the 2nd Respondent to resume to the possession of the land allotting to the petitioners there under is arbitrary, irrational, malafide and violative of principles of natural justice and consequently invalidate the said Memo of the 1st Respondent and the consequential proceeding of the 2nd Respondent bearing No.II/8593/1999 dated 02-11-2007; II/4147/1999 and II/4148/1999 dated 02-11-2007 is unsustainable and direct the respondents to forbear from enforcing the same against the petitioners and further direct the respondents not to interfere with the possession and enjoyment of the allotted land of the petitioners situated in S No.2 Block-D and T.S. No.1/1 Block-F of Ward No.9 correlated to Sy.No.403/P of Shaikpet village, Golconda Mandal, Hyderabad.

2. In the reference 2nd read above, the Hon'ble High Court In' its order dated 17.07.2012 in WP

No.4905/2008 have passed following direction:
(operative portion):-

"I have given my anxious consideration to the rival contentions advanced by the learned counsel appearing for the parties. It is a matter of record that the show-cause notices dated:06-01-2006 have been issued to the petitioners proposing cancellation of the allotment. The petitioners submitted their explanations to the show cause notices. It is a matter of record that the original allotments in favour of the petitioners were made by the Government in the year 1994; vide G.O.Ms.No.482,483 and 484 dated 20th July, 2004. The above referred Government Orders were issued in the name of the Governor of Andhra Pradesh. The Collector and. District Magistrate, issued show-cause notice dated: 06-01-2006. The petitioners submitted explanation to the show cause notices. The proper authority to cancel the assignment is the Government. The memo issued by the Government has been extracted supra. It is not indicated in the memo that the Government considered the explanations offered by the

petitioners. Without looking into the explanations offered by the petitioners, the Government issued instructions to the Collector to resume land allotted to the petitioners. Subsequent proceedings dated: 02-11-2007 issued by the District Collector- 2nd respondent are based on the Memo. NO.14116/Assn.III//1/96 dated: 01.09.2007. The basic order for cancellation of the allotment in Memo Dated:01-09-2007 issued by the Government. A plain reading of the above-referred memo indicates that the Government have not looked into the explanations offered by the petitioners. Therefore, I am of the view that the Government Memo No. 14116/Assn.III./1/1996 dated:01-09-2007 and consequent order passed by the District Collector cannot be sustained.

Accordingly, the writ petition is allowed setting aside Memo.No.14116/Assn.III/1/ 1996, dated: 01-09-2007 and consequential order passed thereon. However, the Government is at liberty to pass orders afresh on considering the

explanation already submitted by the petitioners, No order as to costs.

3. Government have examined the above directions and the Collector, Hyderabad/CCLA, Hyderabad have been requested to submit a detailed report with specific remarks to Government for further necessary action vide Govt. Memo 3rd read above.

4. In the reference 6th read above, the CCLA & Spl.C.S, has reported that, after perusal of the report of the Collector, Hyderabad in the reference 4th read above and the records submitted by the aforesaid (3) firms, it has been observed that there are two stages involved in the whole issue. Earlier Government orders before handing over possession to the firms which was challenged in the High Court and subsequently in the Supreme Court. Here the issue was discrimination shown against them Vis-à-vis DOT publishers, Roots Educational Society and the Hon'ble Courts consistently held that discrimination should not be shown and that non-handing over possession of land even after payment of the value as fixed is wrong and the order of this Hon'ble High Court quashing G.O.Ms.No.38, dt:16.01.2001 cancelling the allocation of land to these (2) Institutions was upheld by the Hon'ble Supreme Court.

5. The CCLA has also reported that, subsequently through G.O.Ms.No.482, 483 & 484

in the year 2004, the land was again re-allotted to the above organizations and the Collector, Hyderabad was requested to take necessary action to hand over to the above land to the (3) firms. Accordingly, the land was handed over to the Institutions on 02-08-2004 by conducting Panchanama as reported by the Collector in his letter dt: 17.06.2013. The action now is with reference to non-construction of the buildings and putting them to use as per the conditions of allotment after handing over possession of land in pursuance of the above said G.Os based upon a Letter of the Collector, Hyderabad. The Government vide Memo. No.14116/Assn.III/1/96, dt: 01.09.2007 cancelled the allotment of land to DOT Publishers, Maharshi Publishers, Creative Industries and Balaji Administrative Services while violating the Conditions issued in the above G.Os allotting the land to them in 2004. Further he has reported that the Government issued instructions to the Collector to resume the land allotted to the petitioners on the point that since the Memo is not a speaking order, and as the Government have not looked into the explanation offered by the Petitioners, the Hon'ble Court set aside the Govt. Memo. No.14116/Assgn.III/1/96, dt:01.09.2007 and the consequential orders passed thereon. However, a Memo cannot set aside a G.O earlier passed and even on that ground the Memo would not have stood the scrutiny of Judicial examination while passing this order. The Court gave freedom to the Government holding that Government is at

liberty to pass orders afresh on considering the explanation submitted by the petitioners. Hence, while examining this issue on the basis of explanation offered by the Petitioners and for taking a view on this, we need not be bound by the earlier High Court order as well as the SLP filed before the Supreme Court since at that time the contention was with reference to discriminatory approach in dealing with the petitioners vis-à-vis DOT Publishers and Roots Educational Society and non-handing over of possession of land even after payment of full value.

6. The CCLA, Hyderabad has further reported the G.Os specifically G.O.Ms.No.482, Dated:20-07-2004 talks of handing over of land to Maharshi Publishers for establishment of Printing Press Andhra Patrika and its administration office, / G.O. Ms.No.483, dated 20-07-2004 talks of allotting land to Creative Industries Pvt.Ltd., for establishment of Printing Press of Guardian English Daily Press, and G.O.Ms.No.484, Dated 20-07-2004 talks of provision of land to Balaji Administrative Services for establishment of Udayam Dally News Paper. As is made out by the District Collector in his report, they are not running any New Paper and these are not in circulation, the Memorandum of the Articles of Association do not remotely talk of publication of News Papers and after the land has been handed over, no specific effort has been done by any of these Agencies to obtain necessary permissions and to start the work. It cannot be the job of the

Revenue Department having allotted the land to pursue with the above (3) organizations for getting necessary approvals from different departments and it is for them to obtain necessary permissions and put the land allotted to them to use for which it was allocated and if they failed to do it in doing so, return it back to Government.

7. However, In view of the plea that the three (3) Institutions are making that they are yet to get the necessary permissions to start their work, the CCLA has requested the Government to issue a final notice from Government side giving (6) months time to the aforesaid firms, to get all the clearances and to start the work with reference to the objectives for which the land has been allotted to them without any deviations and show progress, failing which Government may resume back to the land if they do not put it to use for which it is meant.

8. Government have examined the proposal, and have observed that –

Since the High Court gave liberty to Government to pass orders afresh after considering the explanations already submitted by the petitioners, the remarks of the CCLA were called for. The CCLA has reported informing that G.O.Ms.No.482 talks of handing over of land to Maharshi Publishers for establishment of

Printing Press Andhra Patrika and its administration office, G.O.Ms.No.483 talks of allotting land to Creative Industries Pvt.Ltd, for establishment of Printing Press of Guardian English Dully Press, G.O.Ms.No.484 talks of provision of land to Balaji Administrative Services for establishment of Udayam Daily News Paper. As is made out by the District Collector in his report, they are not running any New Paper and these are not in circulation, no specific effort has been done by any of these Agencies to obtain necessary permissions and to start the work. It cannot be the job of the Revenue Department having allotted the land to pursue with the above three organizations for getting necessary approvals from different departments and it is for them to obtain necessary permissions and put the land allotted to them to use for which it was allocated and if they failed to do it in doing so, return it back to Government. However, in view of the plea that the three (3) institutions are making, that they are yet to get the necessary permissions to start their work, the CCLA has requested

the Government to issue a final notice from Government side giving (6) months time to the aforesaid firms, to get all the clearances and to start the work with reference to the objectives for which the land has been allotted to them without any deviations to them and show progress failing which Government may resume back to the land if they do not put it to use for which it is meant.

Further, it was observed that it is appropriate to agree with the recommendations of the CCLA and if the agencies do not comply the conditions in the time allowed, and land may be resumed back through a speaking order by way of issuing a G.O, instead of a memorandum.

9. Accordingly, Government hereby direct the District Collector, Hyderabad to issue a final notice giving six (6) months time to the aforesaid (3) firms, to get all the clearances and to start the work with reference to the objectives for which the land has been allotted to them without any deviations and to show the progress, failing which the District Administration may resume back the land if they do not put It to use for which it is meant.

10. The Spl.CS & CCLA Hyderabad/the Collector, Hyderabad shall take necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE
GOVERNOR OF ANDHRA PRADESH)

B.R.MEENA
PRINCIPAL SECRETARY TO GOVERNMENT

23. The respondents have not questioned the authority of the State Government to issue the aforesaid G.O.Ms.No.577, dated 27.11.2013 which imposes a condition on the respondents to utilize the land for the purpose of which it was allotted within a period of six months. In the absence of any challenge to the authority of the State Government to issue G.O.Ms.No.577, dated 27.11.2013 as well as well settled legal principle that the authority having the power to allot the land has the implicit authority to make the same subject to the conditions, it held that the State Government had the authority to issue G.O.Ms.No.577, dated 27.11.2013. The judgment dated 01.11.2002 passed by the Supreme Court does not prohibit the State Government from issuing G.O.Ms.No.577, dated 27.11.2013 which even otherwise

has not been questioned by the respondents. Accordingly, the issue (ii) is answered in the affirmative.

Issue (iii): Whether the order vide G.O.Ms.No.577, dated 27.11.2013 binds the respondents and they are under an obligation to put the subject land to use for the purpose for which it has been allotted?

24. From the perusal of the report of the Collector, dated 29.09.1994 referred to supra, it is evident that the subject land was allotted at the concessional rate to the respondents under the policy of granting land to members of fourth estate and educational institutions. The State Government has parted with the public land to private entities, namely the respondents. There cannot be any cavil about the proposition that the land has to be utilized for the purpose for which it has been allotted. Admittedly, the respondents were placed in possession of the subject land on 02.08.2004. However, till 30.08.2007 for a long period of three years, the respondents did not take any action for setting up of the administrative block and printing press. The respondents cannot be permitted to retain the land indefinitely and not to utilize the same for the purpose for

which it has been allotted so as to defeat the very purpose of allotment of land. Therefore, it is held that the order dated 27.11.2013 binds the respondents and they are under an obligation to put the subject land to use for the purpose for which it has been allotted. Accordingly, issue (iii) is answered in the affirmative.

(iv) Whether Letter No.9362/Assn.III/1/2014-1, dated 17.04.2014 and communication dated 15.09.2014 as well as show cause notices dated 22.09.2015 are legal and valid?

25. In the writ petitions, the respondents have prayed for the following reliefs:

W.P.No.22601 of 2014:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the respondents in refusing for extension of time to get the appropriate clearances from its concerned departments, vide its letter dated 17.04.2014, in Annexure P23 in Ref.No.9362/ASSN/III/1/2014-1, for the land allotted to the petitioners under G.O.Ms.No.1096, 1098 and 1099 dated 31.10.1994 after remittance of total market value to the

government, is arbitrary, illegal, irrational, mala fide and is liable to be set aside and accordingly be set aside, consequently directing the respondents to grant appropriate extension of time for all requisite approvals/clearances from its various departments including clearance for execution of conveyance deed, issue of proceedings permitting the change of land use from residential use to general commercial use and such other approvals as may be necessary, for efficacious use of the land, consequently directing the respondents not to interfere with the possession/enjoyment of the petitioners with respect of the land allotted to them upon payment of market value, in the interest of justice.

W.P.No.30993 of 2014:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the first respondents contained in Lr.No.18298/11/2012-5, dated 15.09.2014, rejecting the benefit of change of land use from residential use to general commercial use, in favour of the petitioners in respect of the lands of the petitioners in Sy.No.403 of Shaikpet Village and Mandal, Hyderabad District for establishment of printing press and construction of administrative office, is arbitrary, discriminatory and contemptuous of the judgment of the Hon'ble Supreme Court in 2002 AIR SCW 4771 and consequently set aside the same and direct the respondents to grant change of land

use in favour of the petitioners enabling the petitioners for locating the administrative block and printing press, to construct buildings and start a newspaper and for establishment of printing press etc., in the land allotted to the petitioners, in the interest of justice.

W.P.No.32403 of 2015:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the respondent No.1 contained in Memo No.14116/Asn.II(1)/1996-2, dated 22.09.2015 purporting to resume possession of the land is arbitrary and illegal and consequently direct the respondents to abide by the land allotment orders contained in G.O.Ms.No.1096, 1098 and 1099, dated 31.10.1994 as upheld by the Hon'ble Supreme Court in (1999) 5 SCC 590, dated 01.11.2002 and consequently direct the respondents to grant all the requisite approvals/clearances to the petitioners for complete use of the allotted land, in the interest of justice.

W.P.No.8376 of 2018:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ directing the respondents to act in accordance with law and forbear from interfering with the possession and enjoyment of the petitioners (in

particular the activity of the petitioners in erecting a fencing over the land) in respect of Acs.6.00 of land in old Sy.No.403 correlated to T.S.No.2, Block D and F, Ward No.9 and T.S.No.1, Block-F of Shaikpet Village and Mandal, Hyderabad District without following the procedure of law.

26. Thus, from perusal of the prayers claimed by the respondents in the writ petitions, it is evident that the issue with regard to validity of the letter dated 17.04.2014 refusing to grant six months time to get all the clearances for commencing the work of establishment of the printing press, validity of the communication dated 15.09.2014 by which the State Government had refused the change of land use from residential to general commercial and the validity of the show cause notices dated 22.09.2015 asking the respondents to show cause as to why the subject land be not resumed were the subject matter of consideration in the writ petitions.

27. It is pertinent to mention herein that along with the respondents, the land was allotted to two other entities, namely M/s.DOT Publishers and Roots Educational Society Private Limited who are similarly situate like the

respondents. However, the possession of the land was not handed over to the respondents, whereas the same was handed over to the aforesaid two entities, namely M/s.DOT Publishers and Roots Educational Society Private Limited. It is also not in dispute that the permission to change the land use from residential and open space to general commercial has been granted in the case of aforesaid two entities in respect of lands allotted to them of same survey No.403, whereas the same has been denied by letter dated 15.09.2014 in case of respondents. Thus, the appellants have treated the aforesaid two entities namely M/s.DOT Publishers and Roots Educational Society Private Limited and the respondents who are similarly situate, differently. The aforesaid action incurs the wrath of Article 14 and is therefore, clearly discriminatory. The impugned order dated 15.09.2014 rejecting the applications of the respondents seeking change of land use from residential and open space to general commercial use therefore, cannot be sustained in the eye of law. The same, therefore, has rightly been quashed by the learned Single Judge.

28. The question of grant of land use has to be considered afresh by the State Government and therefore in the facts of the case, the Letter dated 17.04.2014, refusing to extend time by a further period of six months also cannot be sustained as the State Government firstly is required to consider the issue of change of land use and only thereafter, the respondents can be expected to put the land to use for which it was granted. Therefore, the show cause notices dated 22.09.2015 also cannot be sustained.

29. For the aforementioned reasons, the letter dated 17.04.2014, communication dated 15.09.2014 and show cause notices dated 22.09.2015 are hereby quashed. Issue (iv) is answered accordingly in the negative.

30. Accordingly following directions are issued:-

1. The State Government shall consider the request of the respondents afresh for change of land use from residential and open space to general commercial, at par with M/s. DOT Publishers and Roots Educational Society Private Limited who have been already granted permission

for change of land use, within a period of three months from the date of receipt of copy of this order, and

2. The appellants shall not interfere with the possession of the respondents over the subject land except in accordance with law.

31. To the aforesaid extent, the common order dated 27.01.2023 passed in W.P.Nos.22601 of 2014 and batch passed by the learned Single Judge is modified. In the result, writ appeals are disposed of.

Miscellaneous applications, pending if any, shall stand closed.

ALOK ARADHE, CJ

ANIL KUMAR JUKANTI

30.01.2024

Note: LR copy be marked.
(By order)
Pln